

Hawaiian Gazette.

VOL. XXXVIII, No. 95.

HONOLULU, H. T., FRIDAY, NOVEMBER 20 1903—SEMI-WEEKLY.

WHOLE No. 2538.

UNITED STATES JUDGE DOLE BEGINS WORK WITH GOOD WISHES OF THE BAR

Lawyers and Laity As- semble to Do Honor to Hawaii's First Citi- zen on His Return to the Bench.

The assumption of office by Sanford B. Dole, the retiring Governor, as Judge of the United States Court was given as much simplicity as possible on the part of the principal figure, but nothing could diminish the impressiveness naturally accruing to the event nor detract from a public interest that was spontaneous.

Within the courtroom were assembled in dense multitude the rich and the poor, whose rights Judge Dole was about to swear he would equally protect. Amidst American citizens of various races and color tones were mingled Asiatic and other aliens from all ends of earth. There were present successors of Judge Dole in the Territorial Judiciary and colleagues and ministers of his in the various government regimes he had conducted for high eleven years. Many of the leading business men of the community and a large contingent of both houses of the Legislature went to swell the throng forming an impenetrable mass throughout the entire standing room.

The hall itself was vibrant of historical associations. Sovereigns of Hawaii came there in great pomp to open and close the Legislature. It was the principal courtroom of the Supreme Court under the monarchy, as it later became that of the first United States tribunal ever erected in Hawaii.

Besides a large representation of the Federal and Territorial bar there were present: Acting Governor Carter, Mrs. S. B. Dole, Mrs. W. F. Frear, Attorney General and Mrs. Andrews, Mr. and Mrs. A. G. Hawes, Jr., Mr. and Mrs. E. J. Walker, former Ministers S. M. Damon and L. A. Thurston, former Justice W. A. Whiting, former Attorney General E. P. Dole, former Superintendent of Public Works J. A. McCandless, Senator L. L. McCandless, the Circuit Judges and a large number of business men. Seats were reserved for the ladies to the right of the bench, with one chair vacant and draped in mourning for the widow of Judge Estee. To the left the grand jurors occupied the jury box. A splendid bouquet decorated the bench desk.

The report of the proceedings here following is official, from the hands of Court Stenographer J. D. Avery, up to the close of Judge Hartwell's address and to that extent of especial interest as the first record of the Federal court under the presidency of Judge Dole.

INITIAL PROCEEDINGS.

In the United States District Court in and for the Territory of Hawaii, October term, Hon. Sanford B. Dole, Judge.

In the matter of the Inauguration of Judge Sanford B. Dole.

Honolulu, H. T., Nov. 18, 1903.

Be it remembered that on this thirteenth day of November, A. D. 1903, at ten o'clock a. m. of said day, Honorable Sanford Ballard Dole, having taken and subscribed to the oath of office as required by law and Chief Justice Frear of the Supreme Court of Hawaii after administering said oath, having subscribed his name thereto in the Courtroom of the United States District Court for the Territory of Hawaii, and said Honorable Sanford B. Dole having thereby qualified as Judge of said Court, the following proceedings were had:

The Court: Open Court, Mr. Marshal, U. S. Marshal, E. R. Hendry: Hear ye, hear ye, all persons having business with the Honorable District Court of the United States for the Territory of Hawaii will now draw near, give your attention and you will be heard.

JUDGE DOLE'S REMARKS.

The Court: I wish to say a few words to the gentlemen of the bar on this occasion of my assuming office in this Court. I wish to say that I anticipate a great deal of satisfaction in the work of this Court with your assistance and that our relations will be most pleasant, and I sincerely hope that we may be enabled to work together for the ends for which courts are established which are mainly to protect society and the promotion of justice between man and man.

BAR ASSOCIATION GREETING.

Mr. W. O. Smith: As President of the Bar Association of the Territory of Hawaii, it becomes my pleasant duty to welcome you to the bench of this

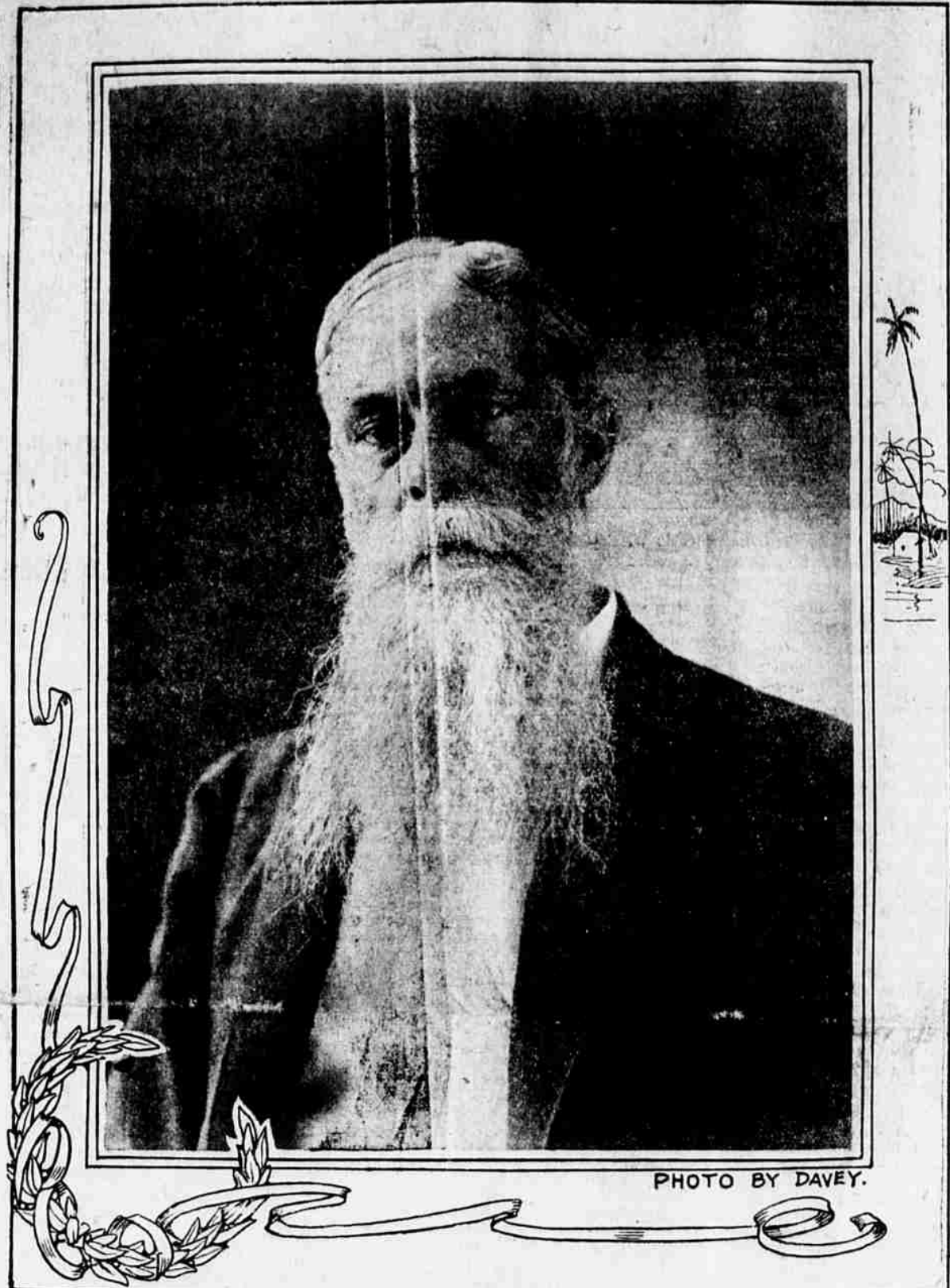


PHOTO BY DAVEY.

UNITED STATES JUDGE DOLE.

Court and with that object, I desire to express their pleasure and the honor which your appointment has conferred upon this community.

It is appropriate that reference should be made at this time to your long public service during the years that you have labored for this community. It is no light thing to render long years of continuous honorable service to the public. In resuming your judicial duties, we feel sure, we have the greatest confidence that the same high regard for the great principles of justice, judgment and mercy as have characterized your public career in the past will be exercised in your new judicial position without fear or favor.

Of the three departments, the Executive, Legislative and Judicial, none is higher than the Judicial. The great duty of a court is to do justice between man and man. In our history of the Hawaiian courts there has always been great confidence. They have maintained a character which has been the secure safeguard of justice and the bulwark of the rights of the people and we feel that under this appointment the confidence will be maintained.

On behalf of the bar I take great pleasure in presenting these sentiments of welcome and appreciation. One or two of the older members of the bar have been requested on this occasion to also address you. Honor, Mr. Hartwell, the senior member, and also Mr. Cecil Brown, who stands next on the roll of the attorneys practicing in the Supreme Court of Hawaii will address you.

BY JUDGE HARTWELL.

Judge A. S. Hartwell: Judge Dole, you have had so many evil things said about you during the past ten or eleven years, that it is proper on this occasion, when you are laying aside the executive work you have so long carried on, that you should hear a few pleasant things. I do not think that all the nice things about a man should be said after his death, nor that they should be said merely by partisans. The community of Hawaii is made up

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KEPOIKAI DENIES THAT HE HAD PROMISED TO RESIGN

At one o'clock this morning Treasurer Kepoikai sent to the Advertiser the following copy of a letter written to Hon. George R. Carter in response to the latter's final communication of yesterday accusing Kepoikai of breaking faith in the matter of his resignation: Territory of Hawaii,

Treasurer's Office, Honolulu, November 18, 1903.

Hon. George R. Carter, Acting Governor of the Territory, Honolulu. Sir:—Your second letter of this date is before me, wherein, in responding to my letter of declination to resign the office of Treasurer of the Territory, you intimate that I have broken faith with you, and have broken my positive promise to you, in so declining to resign.

You are entirely in error in your statement that I at any time, much less on two occasions, made the statement to you "that it was my intention to withdraw and leave you free to select such heads of Departments as would work with you, and in whom you could repose every confidence."

Let me recall to your memory just what occurred upon the only occasion when the topic of resignations was discussed between us. I was then the first to inform you that Mr. Cooper had resigned his office as Superintendent of Public Works, and I stated to you that Mr. Cooper had remarked to me that his reason for so resigning was to "give you a free hand." Upon asking you what was meant by that phrase, you remarked that you expected the resignations of all the heads of Departments. I replied to that suggestion as follows: "Well, if such is the practice, my resignation will be ready at the proper time."

Immediately thereafter I spoke with Governor Dole on the subject, who assured me that I was under no obligation to resign, as my official tenure was

fixed by law, and he did not know what was the practice usually pursued in regard to resignations under such circumstances.

Upon further inquiry and study on my part, I am convinced that it has never been, and is not now, the practice in the United States for officials who hold their offices by a definite legal tenure, to resign those offices upon a change in the personnel of their superiors, or even of the Chief Executive of the Union, or of a State.

Let me cite a few instances in support of this contention. When President Johnson undertook to oust Mr. Stanton from the position of Secretary of War, in 1867, his act was alleged as a basis for his impeachment, which soon followed.

In 1887, when Governor Washington Bartlett, of California, died, and was succeeded by Lt. Gov. Markham, there was no suggestion of resignations from any of the appointees of Governor Bartlett, other than his personal staff. And such has been and is the current of practice and precedent in America, in such cases.

I respectfully invite you to cite a single case wherein an executive State or Territorial officer has resigned the office held by him, to which he was appointed for a fixed period, and from which he could not be removed save with the concurrent action of the Chief Executive and some co-ordinate authority, upon the mere request of the successor of the official by whom he was appointed.

While admitting the practice of resignations being usually tendered by Cabinet officers, and others of like confidential relations to the Executive, upon a change in the executive office, yet this practice has never extended beyond the circle of officials holding at the pleasure of the executive, which I understand to be now the law in relation to resign, as my official tenure was

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A POLICEMAN'S LIFE IS TAKEN

Arrests a Chinese Chicken Thief and Is Murdered in Cold Blood.

A Chinese chicken thief murdered a police officer in cold blood just off Liliha street at a few minutes before eleven o'clock last night within sight of dozens of people. While he was being captured, Charles Clark, Jr., a son of the well-known Charley Clark, was accidentally shot in the elbow. Two young sons of Capt. Robert Parker jumped into the melee and secured the murderer, who later gave his name as Ho Young.

The police patrol wagon, with officers, was on the scene of the shooting within a few minutes. The murderer, his face badly battered, was immediately taken to the police station and locked up. The body of the murdered policeman was also taken there and laid out on the floor of the jail.

The murderer, a small, wiry fellow, presented a horrible sight when he was dragged up to the clerk's desk. His clothes were covered with mud and blood and stolen eggs had broken in his pockets. His face was a mass of blood, so much so in fact that he could hardly see. As he was lined up an officer passed to the clerk one of the chickens that he had stolen. Ho Young was quickly put in a cell.

The dead policeman is J. W. Mahelona, a native, who has been on the force but a comparatively short time. He was a Custom House Guard during the time of the Republic.

The murder took place in a big open lot bounded by wooden houses which face on Liliha street and near what will be Kukui street, when the latter is extended. This open lot is quite large and last night was covered with mud.

CLARK, JR.'S STATEMENT

An Advertiser reporter visited Charley Clark, Jr., at the Queen's hospital after midnight and got the following statement concerning the murder:

"I was just going to my father's place in Buckler's lane. I got off the Liliha street car and took a short cut to our home. When I got as far as our gate a Chinaman came running out of it straight at me. I got scared and ran back to Liliha street. I met Apana, the Chinese special policeman, and asked him where a regular policeman was. He said down the street and I ran and found Mahelona and told of the man. He came back with me and we found the Chinaman in some bushes back of Liliha street. The policeman said 'Here, you,' and told him to come out. It was very dark. The policeman had his revolver out. The Chinaman kept saying 'all right' but did not come out and the policeman went in and dragged him out. He had eggs in his pockets and two chickens in his bag. We took him out on the street and started for the police call box. I met the Parker boys and told them that I thought a man had tried to do me up. When we got near the alarm box the Chinaman said he had more chickens back there in a bag. He said he would show them to the policeman. We told the policeman to search the Chinaman but he did not do so and when we got in back of a building off Liliha street it was muddy. The Chinaman said 'a little farther on.' We stopped there and the Chinaman took the policeman down in back of buildings about thirty yards away. Soon we heard a shot. I heard Mahelona groaning and I ran to him. He was struggling with the Chinaman. I jumped in and put my arms around the Chinaman. I grabbed the hand which held a revolver and while I was struggling with him Mahelona fell down on the ground and commenced shooting at the Chinaman. I had my arms around the Chinaman and one of Mahelona's shots struck me in the elbow. I had to let go that arm but kept hold of the Chinaman's other hand. I kept calling for the Parker boys to come to my assistance. The policeman fired four shots and was then quiet. The Parker boys ran in and we overpowered the Chinaman. A lot of people came around and we searched the Chinaman but could not find his gun. Then they sent for the police and I went to the hospital."

THE POLICEMAN'S BODY

Mahelona's body was brought into the courtyard of the jail. It was found that a shot had entered just below the left side of his jaw, tearing its way up through the neck and burying itself somewhere in the head.

One of the murderers' hands has at some time been crushed off so that he is unable to work with more than one hand and he did the shooting with that. Although the revolver belonging to the policeman was found immediately after the shooting the murderer's weapon was not found. Young Clarke says that when he got hold of the murderer's hand he felt a revolver and that this must have been thrown away by the Chinaman during the scuffle. When Clarke received his wound he had to release the hold of one of his hands and in doing so the Chinaman nearly got away but despite the continued shooting by the dying policeman he made a brave struggle to prevent the murderer's escape. As the Chinaman wrenched himself loose he seized his cue and held on to this until the Parker boys came to the rescue.

Although Clark was taken to the hospital it was found about one o'clock this morning that he would be able to leave it and return to his home as he had only received a slight wound. High Sheriff Brown and Deputy Sheriff Ollingsworth visited the scene of the murder. With a number of men they searched through the muddy lot but were unable to locate the missing revolver. At the time of the shooting the place where it occurred was probably the darkest in Honolulu. The policeman who accompanied the thief had to feel his way, as he could not see. Under a near-by house the police found two sacks that had been used by Ho Young in his depredations on the fowlyards of the vicinity. It is thought the revolver will be found as soon as daylight comes and men are waiting there to secure it as it will be an important piece of evidence.

DIED WHERE HE FELL

Mahelona fell in a pool of his own blood. He was dead when the patrol wagon, which had been rushed to the scene, reached it. His body was placed in the wagon and taken to the police station and later sent to the morgue.